REMARKS

Claims 1-32 are pending in the application. Applicant amends claims 1, 9, 17, and 25 for clarification. No new matter has been added.

Applicant appreciates the Examiner's acknowledgement of the claim for foreign priority under 35 U.S.C. § 119 from Japanese Patent Application No. 2000-319945 (filed October 19, 2000) and Japanese Patent Application No. 2001-216898 (filed July 17, 2001). Applicant respectfully requests that the Examiner also acknowledge receiving all certified copies of the priority documents in this application.

Claims 1-32 stand rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter of the invention.

Applicant amends claims 1, 9, 17, and 25 to correct the antecedent basis issues noted by the Examiner, and to clarify the claim language. Accordingly, Applicant respectfully requests that the Examiner withdraw the § 112, ¶ 2 rejection.

Claims 1-3, 6, 9-11, 14, 17-19, 22, 25-27, and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,430,537 to Tedesco et al. in view of U.S. Patent No. 6,714,643 to Gargeya et al.; claims 4, 12, 20, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tedesco et al. in view of Gargeya et al., and further in view of U.S. Patent No. 6,725,278 to Gonzales; claims 5, 7, 13, 15, 21, 23, 29, and 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tedesco et al. in view of Gargeya et al., and further in view of U.S. Patent No. 6,845,361 to Dowling; and claims 8, 16, 24, and 32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tedesco et al. in view of Gargeya et al., and further in view of Office Notice. Applicant respectfully traverses the rejections.

Tedesco et al. describe a networked jukebox that allows patrons to request music from a server. And Gargeya et al. describe a call center management technique. Applicant respectfully submits that the Examiner has failed to present a prima facie case of obviousness in failing to provide sufficient motivation or suggestion to combine the call wait time estimation described in Gargeya et al. with the local jukebox song queue described in Tedesco et al. In particular, the Examiner has failed to establish how the estimations based on past calls at a call center described in Gargeya et al. could be applied—or even add value—to a local jukebox song queue, as described in Tedesco et al., where song durations are already known. Tedesco et al. describe a local queue managed at a jukebox that only accounts for an order of songs requested locally and the play times for these songs. Thus, the local queue already provides accurate wait times based solely on the play times of songs requested earlier at the jukebox. And there is no motivation or suggestion in either reference to combine this local song queue with the call center estimation technique described in Gargeya et al. The combination of these references was, therefore, clearly based on improper hindsight from the claimed invention in piecing together the disparate features from the unrelated techniques described in these references.

Furthermore, the cited portions of Tedesco et al. do not disclose or suggest a centralized queue management of data distribution, let alone calculating scheduled times according to data size and data-communications speed of a network, as claimed. Again, these cited portions of Tedesco et al. only describe a jukebox displaying the queue order of songs requested locally at a particular jukebox, and do not disclose or suggest providing data request queuing information from the server or the distribution by the server. And the start time of a requested song is based only on the playing times of any songs requested earlier at that particular jukebox. Tedesco et al., therefore, do not disclose or suggest queue management for data distribution. And Gargeya

et al. only describe estimating call durations based on voice call answering parameters, and do not disclose or suggest the claimed calculation based on data size and data-communications speed of a network. Applicant, therefore, respectfully submits that neither reference discloses or suggests the features of the claimed invention.

In other words, even assuming, arguendo, that it would have been obvious to one skilled in the art to combine Tedesco et al. and Gargeya et al., the combination would still have failed to disclose or suggest,

> "[a] method for displaying wait order comprising the steps of:
>
> sending information from a server machine to a client terminal device whenever a distribution request is sent by a user via such client terminal device, the distribution request expressing a request for distributing content to such client terminal device via a network, the information expressing at least a total number of other users who sent the distribution request earlier than the user, an order in a queue of the user in relation to such total number of other users at a point in time when the distribution request is sent by the user, and a distribution schedule, the distribution schedule including a distribution schedule time expressing a time to start sending the content to such client terminal device of the user, which is calculated based on the total number of other users who sent the distribution request earlier than the user, data size of the content, and data-communications speed of the network; and
>
> displaying on the client terminal device the received total number of other users, and the order in the queue of the user in relation to such total number and the distribution schedule time in a graphical or text style," as recited in claim 1. (Emphasis added)

The Examiner relied upon additional references to specifically address the features recited in the dependent claims. And as such, the additional of these references would still have failed to cure the aforementioned deficiencies of Tedesco et al. and Gargeya et al., even assuming, arguendo, that it would have been obvious to one skilled in the art to do so at the time the claimed invention was made.

Accordingly, Applicant respectfully submits that claim 1, together with claims 2-8 dependent therefrom, is patentable over the cited references, separately and in combination, for at least the above-stated reasons. Claims 9, 17, and 25 incorporate features that correspond to those of claim 1 cited above, and are, therefore, together with claims 10-16, 18-24, and 26-32 dependent therefrom, respectively, patentable over the cited references for at least the same reasons.

The above statements on the disclosures in the cited references represent the present opinions of the undersigned attorney. The Examiner is respectfully requested to specifically indicate those portions of the respective reference that provide the basis for a view contrary to any of the above-stated opinions.

Applicant appreciates the Examiner's implicit finding that the additional reference made of record, but not applied, does not render the claims of the present application unpatentable, whether this reference is considered alone or in combination with others.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper, not fully covered by an enclosed check, may be charged on Deposit Account 50-1290.

Respectfully submitted,

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